

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

RODERIC MACK WRIGHT,

Plaintiff,

vs.

UNITED STATES DEPARTMENT OF
JUSTICE, et al.,

Defendants.

CASE NO. 17cv1451-LAB (MDD)

**ORDER GRANTING MOTIONS FOR
SUMMARY JUDGMENT [Dkts. 20, 21,
22]**

In 2014 and 2015, Plaintiff Roderic Mack Wright submitted requests to each of the agency-defendants under the Freedom of Information Act ("FOIA"), seeking documents related to a federal criminal investigation into his business dealings. Wright alleges that the defendants failed to produce responsive, nonexempt documents and thereby violated the FOIA. The agencies now move for summary judgment, arguing that their respective productions complied with FOIA rules. For the reasons below, those motions are **GRANTED**. Dkts. 20, 21, 22.

Legal Standard

"Summary judgment is the procedural vehicle by which nearly all FOIA cases are resolved." *Nat'l Res. Def. Council v. Dep't of Def.*, 388 F. Supp.2d 1086, 1094 (C.D. Cal. 2005) (quoting *Mace v. EEOC*, 37 F. Supp. 2d 1144, 1146 (E.D. Miss. 1999)). "FOIA gives individuals a judicially-enforceable right of access to government agency documents." *Lion Raisins v. Dep't of Agric.*, 354 F.3d 1072, 1079 (9th Cir. 2004) (citing 5 U.S.C. § 552), *overruled on other grounds by Animal Legal Def. Fund v. U.S. Food &*

1 *Drug Admin.*, 836 F.3d 987, 990 (9th Cir. 2016). The FOIA provides, among other things,
 2 that “each agency, upon any request for records which (i) reasonably describes such
 3 records and (ii) is made in accordance with published rules stating the time, place, fees
 4 (if any), and procedures to be followed, shall make the records promptly available to any
 5 person.” 5 U.S.C. § 552(a)(3)(A).

6 “The Supreme Court has interpreted the disclosure provisions of FOIA broadly,
 7 noting that the act was animated by a ‘philosophy of full agency disclosure.’” *Lion Raisins*,
 8 354 F.3d at 1079 (citing *John Doe Agency v. John Doe Corp.*, 493 U.S. 146, 152 (1989)).
 9 “FOIA contains nine exemptions, however, which a government agency may invoke to
 10 protect certain documents from public disclosure.” *Minier v. Cent. Intelligence Agency*,
 11 88 F.3d 796, 800 (9th Cir. 1996) (citing 5 U.S.C. § 552(b)). “Unlike the disclosure
 12 provisions of FOIA, its statutory exemptions ‘must be narrowly construed.’” *Lion Raisins*,
 13 354 F.3d at 1079 (quoting *John Doe Agency*, 493 U.S. at 152). “Where the government
 14 withholds documents pursuant to one of the enumerated exemptions of FOIA, ‘the burden
 15 is on the agency to sustain its action.’” *Id.* (quoting 5 U.S.C. § 552(a)(4)(B)). “An agency’s
 16 refusal to disclose information is subject to *de novo* review by a district court.” *Beck v.*
 17 *Dep’t of Justice*, 997 F.2d 1489, 1491 (D.C. Cir. 1993) (citing 5 U.S.C. § 552(a)(4)(B)). In
 18 addition, the governmental agency has the burden of proving that it has “conducted a
 19 search reasonably calculated to uncover all relevant documents.” *Weisberg v. Dep’t of*
 20 *Justice*, 705 F.2d 1344, 1351 (D.C. Cir. 1983); *see also Zemansky v. EPA*, 767 F.2d 569,
 21 571 (9th Cir. 1985).

22 **Department of Justice, Tax Division**

23 **1. FOIA Request and Agency Response**

24 On July 14, 2014, Wright made a FOIA request to the Department of Justice, Tax
 25 Division, seeking “ALL records (Electronic, paper and other) regarding the above
 26 referenced individual [Roderic Mack Wright]. Including but not limited to, the investigation
 27 by the Northwest Florida Office, FBI Agent Jamie Van Pelt” from 2007 through the date
 28 of the request. Complaint, Dkt. 1, Ex. 1. After confirming Wright’s identity, the Tax

1 Division assigned the request to two of its employees and began running searches for
2 responsive documents in "TaxDoc," a management system containing records of all
3 matters received by the Division since 1978. The Division located two file numbers
4 corresponding to criminal matters related to Wright: DJ Nos. 5-17-2735 and 5-17-2736.
5 The agency then searched its Document Management System ("DMS") for "Roderic Mack
6 Wright," which produced several relevant records. Banerjee Decl., Dkt. 21-2, at ¶ 21.
7 Searches for "Van Pelt," "Pelt," and the "FBI" returned no additional documents, but a
8 search for "Roderick Mack Wright" combined with the two DJ Numbers yielded one email
9 not previously located. *Id.* at ¶ 26.

10 On September 25, 2015, the Tax Division sent its final response to Wright. It
11 released five pages of records related to DJ No. 5-17-2736, including two routing slips, a
12 Criminal Enforcement Sections Case Weighting Form, and a Criminal Enforcement
13 Sections Case Post Review Analysis Form. *Id.* at ¶ 12. Portions of those records were
14 redacted under FOIA Exemptions 5, 6, and 7. The Tax Division withheld in full three
15 records totaling 35 pages under the same exemptions. *Id.* at ¶¶ 32-35, 36-39c, 40-44d.

16 The Tax Division also informed Wright that it had referred 70 additional pages of
17 records originating with the Internal Revenue Service ("IRS") to that agency for its
18 processing and direct response. On October 16, 2015, the IRS wrote to Wright that these
19 70 pages were being withheld in full because they consisted solely of documents
20 generated for, and discussing detailed aspects of, a grand jury investigation. See
21 Valvardi Decl., Dkt. 21-3, at ¶¶ 15, 22-30. Several of the records were also, in the IRS's
22 view, either exempt as privileged attorney communications or exempt as containing
23 confidential taxpayer information. *Id.* at ¶¶ 31-36, 37-45. In total, all 70 pages were
24 withheld as confidential grand jury information and 60 of the 70 pages were withheld
25 under additional, applicable FOIA exemptions.

26 ///

27 ///

1 **1. Analysis**

2 The Tax Division¹ argues it is entitled to summary judgment because it conducted
 3 a reasonable search and then properly withheld documents under the relevant FOIA
 4 exemptions. Wright's opposition—which contains 17 pages of mostly irrelevant
 5 background information copied and pasted directly from his opposition to the Department
 6 of Justice's motion for summary judgment—is so sparse on rebuttal arguments that it
 7 should be construed as consent to the Tax Division's motion being granted in its entirety.
 8 The opposition allots just three of twenty pages to discussing the Tax Division's claimed
 9 exemptions, and in that three pages discusses only Exemption 6. He addresses none of
 10 the other exemptions claimed by the Tax Division, nor the adequacy of its search. Based
 11 on Wright's failure to address the arguments presented, the Court finds that the Tax
 12 Division's search was reasonable and that its application of Exemptions 3, 5, and 7 were
 13 proper. See *Image Tech. Serv., Inc. v. Eastman Kodak*, 903 F.2d 612, 615 n. 1 (9th Cir.
 14 1990) (holding that plaintiff's failure to raise an issue in opposition to defendant's motion
 15 for summary judgment waived the issue); *Hakakha v. CitiMortgage, Inc.*, 2015 WL
 16 4873561, at *8 (C.D. Cal. 2015) ("The Court construes Plaintiff's failure to address those
 17 arguments as Plaintiff's concession that they are valid reasons to dismiss those claims.").

18 As discussed above, the only challenge Wright makes in his opposition is that the
 19 Tax Division incorrectly applied Exemption 6.² Although his argument seems to be related
 20 to the DOJ's (not the Tax Division's) decision to apply Exemption 6 to withhold a search
 21 warrant that was otherwise responsive to his DOJ FOIA request, the Tax Division withheld
 22 the following information under Exemption 6:

23 ///

24 _____
 25 ¹ Unless otherwise specified, the Tax Division and IRS are treated as a single entity for
 purposes of this order.

26 ² The same documents the Tax Division withheld under Exemption 6 were also withheld
 27 under other FOIA exemptions, such as Exemption 7(c). Since Wright has waived any
 28 argument regarding exemptions other than Exemption 6, it is unnecessary to reach the
 Exemption 6 question. The Court does so only out of an abundance of caution.

- 1 • The names of criminal defendants or targets (other than Wright) in a 31-
2 page internal Tax Division Memorandum that was sent from a trial attorney
3 in the Tax Division's Criminal Enforcement Section to the Division's
4 Principal Deputy Attorney General and set forth recommendations
5 regarding whether to prosecute Wright. Banerjee Decl., Dkt. 21-1, at ¶¶ 36,
6 39b-39c;
- 7 • The names of criminal defendants or targets (other than Wright) in a three-
8 page letter from the Tax Division's Criminal Enforcement Section to the
9 Office of the United States Attorney for the Northern District of Florida
10 discussing aspects of Wright's criminal investigation. *Id.* at ¶¶ 40, 44a-
11 44b;
- 12 • The name of a Special Agent from a September 2, 2011 letter. *Id.* at ¶ 44a;
13 and
- 14 • Names, email addresses, home addresses, dates of birth, and social
15 security numbers of individuals referenced throughout the production.
16 Valvardi Decl., Dkt. 21-3, at ¶¶ 55-58.

17 FOIA Exemption 6 protects "personnel and medical files and similar files the
18 disclosure of which would constitute a clearly unwarranted invasion of personal privacy."
19 5 U.S.C. § 552(b)(6). In determining whether Exemption 6 applies, the court considers
20 two factors: (1) whether the information is contained in a personnel, medical, or "similar"
21 agency file, the disclosure of which constitutes a "clearly unwarranted invasion of
22 personal privacy," and (2) whether a countervailing public interest in the record outweighs
23 the individual's privacy interest. *Lahr v. Nat'l Transp. Safety Bd.*, 569 F.3d 964, 973 (9th
24 Cir. 2009).

25 Given that the individuals referenced in the Tax Division's documents were linked
26 to criminal investigations, the Tax Division properly applied Exemption 6 to withhold their
27 names and personal information from its production. As the Ninth Circuit recognized in
28 *Lahr*, "protection from such unwanted contact facilitated by disclosure of a connection
[between a private individual and] government operations and investigations is a
cognizable privacy interest under Exemption[] 6." *Id.* at 976. Further, the Tax Division's
decision to redact names, email addresses, home addresses, dates of birth, and social
security numbers of individuals mentioned in the documents (and especially those linked
to a criminal investigation) is consistent with a long-recognized rule that such disclosure

1 would constitute a “clearly unwarranted invasion of personal privacy” with no
 2 countervailing public interest. See *Torres Consulting & Law Grp., LLC v. Nat’l*
 3 *Aeronautics & Space Admin.*, 666 F. App’x 643, 645 (9th Cir. 2016) (“[I]nformation that
 4 identifies a particular individual—names, addresses and social security numbers—has
 5 been redacted, as [Plaintiff] concedes it should be.”).

6 Wright makes two primary arguments in response. First, he already “knows the
 7 names of all the players in this story” and thus there’s no harm in disclosing their identities.
 8 See Opp. at 18. But fact that Wright may already know these individuals’ names is
 9 irrelevant—as the Tax Division correctly points out, the question is whether disclosure of
 10 their names and identifying information to the public would violate their privacy. It would.
 11 Wright also makes a passing argument that these documents should be produced even
 12 if the identifying information is redacted. See Opp. at 17. As discussed, though, these
 13 documents were withheld under multiple exemptions and Wright has not addressed any
 14 exemption other than Exemption 6 in his opposition. Even if production with redactions
 15 would be appropriate under Exemption 6, the documents were properly withheld in full
 16 under other exemptions, so this argument is unavailing.

17 In sum, there was no error in the Tax Division’s decision to withhold private
 18 information under Exemption 6. Wright has not addressed the Tax Division’s application
 19 of the other exemptions nor the reasonableness of its search, so these arguments are
 20 waived. The Tax Division’s Motion for Summary Judgment is **GRANTED**. Dkt. 21.

21 Department of Justice³

22 1. FOIA Request and Agency Response

23 On March 3, 2015, Wright submitted a FOIA request to the FBI requesting “all
 24 documents regarding the above referenced matter,” referring to court case *USA v.*

25 ³ The DOJ moves for summary judgment on behalf of the four separate agencies: (1) the
 26 Federal Bureau of Investigation (“FBI”), (2) the Executive Office for the United States
 27 Attorneys (“EOUSA”), (3) the U.S. Attorney’s Office, Northern District of Florida, and (4)
 28 Department of Justice, Office of Information Police (“OIP”). The OIP is not a defendant
 in this suit and Wright does not appear to challenge its actions.

1 *Roderick Mack Wright* and USAO Number 2009R00343. See Hardy Decl., Dkt. 20-8 at
2 ¶¶ 5-6. The agency responded that it had located approximately 3,506 pages of records
3 and one compact disc potentially responsive to his request. To expedite the process, the
4 FBI and Wright agreed that his request would be limited “to the first 16 pages of the search
5 warrant affidavit and third-party depositions, with the understanding that all material
6 undergoes FOIA review and exempt material would be withheld.” *Id.*, Ex. E. In total, this
7 reduced the universe of potentially responsive documents from 3,506 to roughly 50. *Id.*
8 After consulting with another government agency, the FBI released one document to
9 Wright on February 26, 2016 that related to a bankruptcy proceeding from the Northern
10 District of Florida. See *id.* at ¶ 14. The FBI supplemented that production on November
11 30, 2017, releasing seven additional pages containing emails between the U.S. Attorney’s
12 Office, Northern District of Florida and the FBI, as well as a memorandum regarding
13 potential mortgage fraud by Wright and Pointe Development of Destin, Inc. The
14 remaining responsive documents were withheld as exempt. See *id.* at ¶ 16.

15 On the same date Wright submitted his FOIA request to the FBI, he submitted an
16 identical request to the U.S. Attorney’s Office, Northern District of Florida, which was
17 referred to the EOUSA for processing. See Kornmeier Decl., Dkt. 20-2, Ex. A. The
18 EOUSA responded that it had located 122 pages of responsive material, but that these
19 documents were being withheld in full as related to grand jury proceedings. See Compl.
20 Dkt. 1, Ex. 30. The EOUSA also located several additional documents that originated
21 with different agencies and referred those documents to their respective agencies for
22 processing. See Kornmeier Decl. at ¶¶ 8-9. Finally, on October 11, 2017, the EOUSA
23 sent Wright a letter explaining that it was withholding another seven pages of grand jury
24 materials that had been located at the U.S. Attorney’s Office, Northern District of Florida.
25 *Id.* at ¶ 7.

26 The searches performed by the FBI and EOUSA were substantially similar to those
27 performed by the Tax Division, discussed above. Upon receipt of his request, the DOJ
28 conducted an index search of its Central Records System using the following search

1 terms, including phonetic breakdowns of each: “Roderic Mack Wright,” “Roderic M
2 Wright,” and “Roderic Wright.” See Hardy Decl., Dkt. 20-8, at ¶ 24. These searches
3 encompassed records maintained at FBI headquarters as well as all FBI field offices. *Id.*
4 The agency used information in Wright’s request letter, such as his date of birth and other
5 identifying information, to help locate responsive documents. *Id.* As a result, the FBI
6 located one responsive main file that was indexed under Wright’s name; within this file
7 were records specifically requested by his negotiated request. *Id.*

8 **2. Analysis**

9 The DOJ argues it is entitled to summary judgment because it conducted a
10 reasonable search and then properly withheld documents under the relevant FOIA
11 exemptions. Like his response to the Tax Division’s motion, Wright does not make a
12 meaningful effort to oppose the DOJ’s motion. The first 17 pages of his 21-page
13 opposition are identical to those submitted in response to the Tax Division’s motion—the
14 pages are filled with irrelevant background information that has little to no bearing on the
15 matters currently before the Court. With limited exception (discussed below), he does not
16 engage with the DOJ’s claimed exemptions nor explain why these exemptions were
17 incorrectly applied to the specific documents at issue. Instead, he makes a handful of
18 scattershot arguments and combines those arguments with generic statements of law
19 concerning FOIA’s goal of furthering public disclosure. Rather than belabor the point by
20 marching through the documents withheld and the propriety of the exemptions applied to
21 each, the Court will instead address the few responsive arguments Wright makes. As
22 with the Tax Division, all other arguments are deemed waived.⁴ See *U.S. v. Dunkel*, 927
23 F.2d 955, 956 (7th Cir. 1991) (“Judges are not like pigs, hunting for truffles buried in the
24 briefs”); *Keenan v. Allan*, 91 F.3d 1275, 1279 (9th Cir. 1996) (“It is not [the] task . . . of the
25

26 ⁴ The lackluster nature of Plaintiff’s oppositions is especially disheartening in light of the
27 amount of time the Court gave him to prepare his responses. Wright had more than three
28 months to put together oppositions to the defendants’ motions, including an extension of
time granted specifically so he would have adequate time to prepare.

1 district court[] to scour the record in search of a genuine issue of triable fact. We rely on
2 the nonmoving party to identify with reasonable particularity the evidence that precludes
3 summary judgment.”).

4 Wright first argues that the DOJ failed to submit a “*Vaughn* index,” which is a list
5 of documents withheld and the reasons for doing so. See Opp. at 22. He’s incorrect.
6 Both the FBI and EOUSA submitted *Vaughn* indexes. See Hardy Decl., 20-8, Ex. L;
7 Kornmeier Decl., Dkt. 20-2, Ex. E. These indexes contain sufficient descriptions of the
8 documents withheld and the specific exemptions applied to each. Accordingly, even if
9 the Court were to construe Wright’s argument as an attack on the sufficiency (rather than
10 existence) of the agencies’ indexes, his argument fails. See *Landmark Legal Found. v.*
11 *I.R.S.*, 267 F.3d 1132, 1138 (D.C. Cir. 2001) (“[A] *Vaughn* index is not a work of literature;
12 agencies are not graded on the richness or evocativeness of their vocabularies. The index
13 offers individualized descriptions of the documents themselves and then, typically . . .
14 tracks that of the statute itself. It is not the agency’s fault that thousands of documents
15 belonged in the same category, thus leading to exhaustive repetition.”).

16 He next argues that the FBI’s search was inadequate because it failed to use the
17 name “Rod Wright”—a nickname used by his associates—in searching for responsive
18 records. The FBI, of course, would have no way of knowing it should use that moniker
19 since it was not a name listed on Wright’s FOIA request. The FBI searched for three
20 separate variations of the name “Roderic Mack Wright,” including phonetic variations of
21 each. Its efforts were more than sufficient to constitute a good-faith search.

22 The bulk of Wright’s objections relate to the FBI’s decision to exempt as grand jury
23 materials certain documents Wright says should have been disclosed. First, he says that
24 search warrant affidavits should have been disclosed because they were completed
25 before the grand jury was seated and thus could not be grand jury materials. Documents
26 related to grand jury investigations enjoy broad protection from public disclosure. See
27 *Iglesias v. Cent. Intelligence Agency*, 525 F. Supp. 547, 556 (D.D.C. 1981) (“Rule 6(e)
28 embodies a broad sweeping policy of preserving the secrecy of grand jury material

1 regardless of the substance in which such material is contained.”). This protection does
2 not begin the moment the grand jury is seated—it also extends to documents that predate
3 the investigation whose disclosure would “tend to show the substance of testimony or the
4 direction and strategy of the investigation.” *Greenberg v. U.S. Dep’t of Treasury*, 10
5 F. Supp. 2d 3, 28 (D.D.C. 1998) (citations and quotation marks omitted). The search
6 warrant affidavits here, which were created by an IRS Special Agent in advance of the
7 grand jury proceedings, are indicative of the “direction and strategy of the investigation”
8 because they show who and/or what was being searched. Such materials were properly
9 withheld under Exemption 3.

10 Wright also argues that some of the grand jury designations were applied after he
11 filed his FOIA request. See Opp. at 16. Of course they were. While it’s conceivable that
12 some document designations are made on a rolling basis, many document designations
13 are not made until a member of the public submits a request for production that requires
14 the agency to consider whether a specific document should be released to the public.
15 That a designation is made after a FOIA request is irrelevant to whether the document is
16 exempt or not.

17 Wright emphasizes how few documents the DOJ ultimately produced relative to
18 the number initially identified as responsive. But the fact that the DOJ’s final production
19 was small is not surprising. Wright’s requests centered on a criminal investigation into
20 his own business dealings, and documents related to criminal investigations are among
21 the most protected government documents. Indeed, at least four of the nine FOIA
22 exemptions can be construed as touching on criminal investigations in some way. See 5
23 U.S.C. § 552(b)(3) (exempting documents protected by other statute, including Fed. R.
24 Crim. Pro 6(e), which relates to grand jury documents); *Id.* § 552(b)(5) (exempting intra-
25 and inter-agency memoranda, including investigatory documents); *Id.* § 552(b)(6)
26 (exempting the disclosure of documents, such as witness or agent names, that would
27 “constitute a clearly unwarranted invasion of personal privacy”); *Id.* § 552(b)(7)
28 (exempting “records or information compiled for law enforcement purposes.”). So while

1 Wright makes much of the fact that he received only a few pages from the DOJ, this
2 outcome is not unusual in light of the type of material he sought.

3 At the very end of his opposition, Wright reveals the underlying objective of this
4 FOIA proceeding: an order allowing “Wright to depose[] Patrick Barcus, Blair Mielke, and
5 William Amos to prove conclusively that the FBI interfered with Wright’s business
6 dealings.” Opp. at 22. This type of request is entirely beyond the scope of this FOIA
7 proceeding. See *Wheeler v. C.I.A.*, 271 F. Supp. 2d 132, 139 (D.D.C. 2003) (“Discovery
8 is generally unavailable in FOIA actions.”); *In re Steele*, 799 F.2d 461, 466 (9th Cir. 1986)
9 (“The FOIA is not to be used as a substitute for the traditional means of discovery
10 available to a litigant.”). The point of this case is to determine whether the various
11 agencies properly withheld documents under the relevant FOIA exceptions, not to provide
12 the best ammunition to Wright in his efforts to show that the government interfered in his
13 business dealings. Although Wright’s confusion helps to explain why his oppositions
14 focus on the irrelevant details of the government’s criminal investigations, it does not
15 warrant denying summary judgment. His request for discovery is **DENIED** and the DOJ’s
16 Motion for Summary Judgment is **GRANTED**. Dkt. 20.

17 Department of the Treasury

18 1. FOIA Request and Agency Response

19 On July 13, 2014, Wright submitted a FOIA request to the Department of the
20 Treasury through its online “goFOIA” web portal. See Law Decl., Dkt. 22-3, Ex. A. His
21 request sought “ALL records (Electronic, paper and other) pertaining to the Investigation
22 of Roderic Mack Wright (The above named Requester) by the Pensacola Division,
23 Department or Office. In particular the investigation conducted by Treasury Agents
24 Margaret Weiss and Phillip Dreason.” *Id.* After confirming receipt of his request, the
25 Treasury informed Wright via letter that “his request failed to describe the requested
26 records in reasonably sufficient detail to enable Treasury employees who are familiar with
27 the subject area of the request to locate the records without placing an unreasonable
28 burden upon the Department.” Law Decl. at ¶ 9. The Treasury requested that he

1 resubmit his request with a reasonable description of the specific records sought. It also
 2 provided him a link to a list of specific Treasury records systems to help Wright in
 3 reformulating his request. *Id.* The Treasury contends that Wright did not respond.
 4 Instead, seven months later, on March 3, 2015, Wright provided the Treasury with copies
 5 of correspondence related to his FOIA requests to *other* government agencies. This
 6 correspondence included a “USAO Number” related to the investigation but did not
 7 provide additional information about the types of records sought from the agency. The
 8 Treasury again informed him that his FOIA request was still too vague and that the agency
 9 required additional information to facilitate a reasonable search. The Treasury contends
 10 that Wright again failed to respond, and it then administratively closed his request under
 11 31 C.F.R. 1.5(a)(1), which provides that “[i]f a requester does not respond within 30 days
 12 to a communication from a bureau to amend the request in order for it to be in
 13 conformance with this subpart, the request file will be considered closed.”

14 For his part, Wright initially alleged in his Complaint that he did respond to the
 15 Treasury’s requests for clarification, first on August 5, 2014 and later on April 21, 2015.
 16 Compl., Dkt. 1., at ¶¶ 11, 22. The Treasury has no record of ever receiving these letters,
 17 though, and Wright concedes in his opposition that he may have mistakenly provided
 18 information to the DOJ Tax Division that was intended for the Treasury. See Opposition,
 19 Dkt. 28-2, at 5.

20 **2. Analysis**

21 An agency’s obligations under FOIA to search for and release records “are not
 22 triggered . . . until it has received a proper FOIA request in compliance with [the agency’s]
 23 published regulations.” *Antonelli v. Fed. Bureau of Prisons*, 591 F. Supp. 2d 15, 26
 24 (D.D.C. 2008). A proper, perfected FOIA request is one that “reasonably describes” the
 25 records sought, 5 U.S.C. § 552(a)(3)(A), and a party’s failure to perfect a request
 26 constitutes failure to exhaust administrative remedies, which precludes judicial review.
 27 *Flowers v. IRS*, 307 F. Supp. 2d 60, 66 (D.D.C. 2004). The question here is whether
 28

1 Wright's request to the Treasury "reasonably describe[d]" the documents sought, such
2 that the agency had a duty to search for and produce responsive documents.

3 FOIA processing within the Treasury is decentralized—each of the agency's nine
4 divisions (for example, the IRS and the Bureau of Engraving and Printing) process their
5 own FOIA requests. Law Decl. at ¶ 5(a)-(i). Requests directed at the Treasury in general
6 are treated as requests to the Treasury's headquarter offices, such as the Office of the
7 Secretary. *Id.* at ¶ 1, n.1. In light of this, the Treasury argues that Wright's request for
8 "all documents pertaining to" an investigation by a separate agency (or a separate division
9 of the Treasury) is not a reasonable description of the documents sought.

10 "Broad, sweeping requests lacking specificity are not permissible," nor are
11 requests that would require the agency to "engage in quite a bit of guesswork to execute."
12 *Yagman v. Pompeo*, 868 F.3d 1075, 1081 (9th Cir. 2017) (citing *Marks v. United States*,
13 578 F.2d 261, 263 (9th Cir. 1978)). Whether Wright's request here was impermissibly
14 broad would normally be a close call. On one hand, "all records . . . pertaining to [an
15 investigation]" is more or less the definition of a broad, sweeping request. On the other
16 hand, Wright specifically named the individuals and office involved in that investigation,
17 which would cut down considerably on the guesswork required. What tips the scales in
18 favor of the Treasury is that Wright did not respond when asked for clarifying information.
19 Although the Treasury may have been able to search for documents based on the
20 information provided (or at least referred the request to the relevant division), it chose
21 instead to request supplemental information so that it could be sure it was providing
22 responsive information. That decision was not improper. The agency invited Wright on
23 July 13, 2014 to refine his request and suggested that he could identify specific records
24 systems (from a list provided) that might contain the documents he sought. Wright's only
25 confirmed response to the Treasury came on March 3, 2015, when he resubmitted the
26 same basic request, but this time added the "USAO Number" of the investigation. Given
27 that this USAO Number was a number assigned by a separate agency (the DOJ), this
28 additional information did not clarify the FOIA request such that the Treasury had a duty

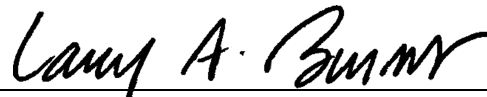
1 to respond. See *Yagman*, 868 F.3d at 1081 (FOIA obligations are triggered “only upon a
 2 request which ‘reasonably describes’ the records sought.”) (citing *Marks*, 578 F.2d at
 3 263). When the Treasury again reached out to him for clarification, Wright again failed to
 4 respond.⁵ Given the opportunities given to Wright to clarify his broad request and his
 5 failure to do so, the Treasury did not have an obligation to respond under the FOIA. The
 6 Treasury’s Motion for Summary Judgment is **GRANTED**. Dkt. 22.

7 **Conclusion**

8 The agency-defendants’ motions for summary judgment are **GRANTED**. Dkts.
 9 20, 21, 22. The clerk is directed to enter judgment accordingly and close the case.

10 **IT IS SO ORDERED.**

11 Dated: April 4, 2019



12 **HONORABLE LARRY ALAN BURNS**
 13 Chief United States District Judge

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 24 ⁵ Again, Wright has made inconsistent claims that he did respond to these requests for
 25 clarification. The declaration provided in support of the Treasury’s motion, however,
 26 describes the agency’s correspondence tracking system and confirms that the agency
 27 did not receive any subsequent clarification from Wright as to his FOIA request, except
 28 the March 3, 2015 letter discussed above. See Law Decl. at ¶ 13. Wright admits in his
 opposition that some information intended for the Treasury may have been mistakenly
 provided to the DOJ instead. See Opp. at 5. Absent a triable issue of fact here, summary
 judgment is warranted.